

(2015) 08 SC CK 0018

In the Supreme Court Of India

Case No : Civil Appeal No. 2386 of 2006.

Commissioner of Central Excise, Panaji - Appellant @HASH M.R.F. Ltd.

Date of Decision : 19-08-2015

Acts Referred:

Citation : (2015) 323 ELT 245

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri. A.K. Sanghi, Senior Advocate, Arijit Prasad, Shankar Divate, Ms. B. Sunita Rao and B. Krishna Prasad, Advocates, for the Appellant; S/Shri. K.V. Mohan and K.R. Nambiar, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. The respondent-assessee herein filed classification/declaration for two products viz., (1) Dipped Tyre Cord Warp Sheet and (2) Rubberised Tyre Cord Warp Sheet. It had earlier claimed the classification for these two items under Chapter Heading 5902.10 of the Central Excise Tariff Act. However, it was reclassified under Chapter Heading 4005.90.

2. The assessing authority classified the first item under Heading 5902.10 and the second item under Heading 5906.99 and charged the duty accordingly. The respondent preferred appeal against the said order before the Commissioner of Central Excise (Appeals). The Commissioner (Appeals) allowed the appeal on the ground that the case was covered by the judgment of the Tribunal in MRF Ltd. v. CCE, Goa & Chennai" [1999 (80) ECR 398 (Tribunal) = 1999 (105) E.L.T. 619 (Tribunal)]. The Department preferred appeal there against which has been dismissed by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as CESTAT) observing that the aforesaid judgment of the Tribunal has been upheld by this court in CCE, Goa & Chennai v. MRF Ltd. [2005 (180) E.L.T. 145 (S.C.)].

3. We find that the aforesaid observations of the CESTAT are incorrect inasmuch as this Court in MRF case (supra) had remitted the case back to the

Commissioner and had not decided the appeal in favour of the assessee. Be that as it may, we are of the opinion that in the instant case, it is not even necessary to remit the case back because of the reason that the classification as made by the Department has been accepted by the assessee and the assessee is even paying the duty on the basis of the said classification.

4. We, thus, set aside the order of the CESTAT and maintain the classification as settled by the Department. The appeal is allowed accordingly.